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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/643,967

08/20/2003

Hiroyuki Nansei

030993

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38834

7590

03/10/2005

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EXAMINER

THOMAS, TONIAE M

ART UNIT

PAPER NUMBER

2822

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/643,967

Applicant(s)

NANSEI ET AL.

Examiner

Toniae M. Thomas

Art Unit

2822

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 39 and 40.
Claim(s) objected to: 2, 5-7, 10 and 11.
Claim(s) rejected: 1, 3, 4, 8 and 9.
Claim(s) withdrawn from consideration: 12-38.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No.(s) _____
13. ☐ Other: _____


Mary Wilczewski
Primary Examiner

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 17 February 2005 have been fully considered, but are not persuasive. First, Applicant argues against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Secondly, Applicant argues that "Weimer and Chua do not teach or suggest, among other things, 'a step of forming a silicon nitride film on the lower silicon oxide film to completely nitride the silicon film with a surface wave plasma generated by a plasma nitriding method, wherein a multilayered insulating film including at least the lower silicon oxide film and the silicon nitride film is formed,' as recited in amended claim 1." As explained in the final Office action mailed on 02 December 2004, Weimer discloses a method for manufacturing a semiconductor device (figs. 1-4 and accompanying text). The method comprises: forming a lower silicon oxide film 16, forming a silicon film 18 on the lower silicon oxide film, and forming a silicon nitride film 20 on the lower silicon oxide film 16 to completely nitride the silicon film by a plasma nitriding method (fig. 3; par. 26, lines 1-10, and par. 28, lines 1-12), wherein a multilayered insulating film including at least the lower silicon oxide film and the silicon nitride film is formed. Weimer further discloses the use of an ICP system, an ECR system, a downstream microwave system, an RF system, or other plasma nitriding systems to completely nitride the silicon film (par. 008, lines 21-25 and par. 28, lines 1-6). Chua is relied upon to show that, at the time the invention was made, it was well known in the art to use one of an ICP system, an ECR system, and a radial line slot antenna system for plasma nitriding (par. 61, lines 1-14). Thus, it would have been obvious to the skilled artisan, at the time the invention was made, to perform the complete plasma nitride of the silicon layer 18 in Weimer using a radial line slot antenna system. The radial line slot antenna system generates a surface wave-plasma.